

Doc 95-92

DOCKET FILE COPY

JUL 3 1989

Signed By
Mailed By

Heron, Burchette, Ruckert & Rothwell
Suite 700
1025 Thomas Jefferson Street, N.W.
P.O. Box 96670
Washington, D.C. 20090

Attention: Grier C. Raclin

DOCKET FILE COPY ORIGINAL

Dear Mr. Raclin:

This responds to your letter of July 19, 1989, in which you request authority for the A. C. Nielsen Company and participating television broadcasters to use line 22 of the active portion of the television video signal for the purpose of transmitting encoded advertising and/or program identification signals, a system described as "AMOL." You argue that this request is consistent with those previously made on behalf of TeleScan, Inc. and VidCode, Inc., which received the Commission's approval.

As the records and attachments to your letter show, VidCode indicated that it would be using the TeleScan system and that it was acquiring all rights to the TeleScan system. Thus, the permission granted to VidCode was based on the previous authority granted to TeleScan. The record further demonstrates that the Commission approved TeleScan's system request after public notice and comment, and after determining that the transmission of its proposed data qualified as a "special signal." Thus, the authority to use the TeleScan system on line 22 by licensees in the television services was general in nature.

While you state that the Nielsen's AMOL system also qualifies as a "special signal" and is fully compatible with the technical standards for television service, you failed to submit any detailed description, technical specifications, or other data that would assure us that the system will not perceptibly degrade the television service currently afforded viewers. In order to be able to accurately assess the interference potential of Nielsen's AMOL system, we must require submission of a detailed description of the proposed signal, as well as the results of any laboratory or field testing that may have been performed in connection with its development.

Sincerely,

Bradley P. Holmes
Chief, Policy & Rules Division
Mass Media Bureau

JMCNALLY: ash/PRD/epb

typed: 07/22/89

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July 19, 1989

via: HAND DELIVERY

Mr. Alex D. Felker
Chief, Mass Media Bureau
Federal Communications Commission
Room 314
1919 M Street, N.W.
Washington, D.C. 20554

Dear Mr. Felker:

By this letter, and pursuant to my recent discussion with Commission staff, A.C. Nielsen Company ("Nielsen") hereby requests the Commission to grant it, and broadcast licensees who use A.C. Nielsen's services, permissive authority to use line 22 of the "active portion" of the television video signal for the purpose of transmitting encoded advertising and/or program identification signals.

On July 18, 1985, the Commission granted TeleScan, Inc. ("TeleScan"), and television broadcast licensees using the TeleScan service, authority to transmit encoded advertiser identification signals on line 22 of the active video signal. A copy of the Commission's authorization to TeleScan is attached hereto as Exhibit A. The Commission found that the proposed TeleScan transmissions qualified as "special signals" (signals related to broadcast operation but not intended for public use), and that the TeleScan system met the Commission's special signal transmission authority criteria. The Commission also found that the TeleScan system was compatible with the technical standards for television service and that the TeleScan transmission would not result in an unacceptable degradation of, or interference with, television service to the

M. Alex D. Felker
July 19, 1989
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public. The Commission therefore granted TeleScan permissive authority to use line 22 subject to two conditions: first, television licensees were required to retain ultimate control over their transmissions and would not be required to transmit the TeleScan signals; and second, the TeleScan signals must not produce degradation of the television service received by viewers.

On October 27, 1988, the Commission similarly granted VidCode, Inc. ("VidCode") permissive authority to use the same technology to transmit via local broadcast stations encoded advertiser identification signals on line 22 of the active television video signal, subject to the two conditions set forth in the July 18, 1985 letter to TeleScan. Indeed, the Commission granted the authority to use line 22 to "any licensee [who employs] a system having the same technical characteristics as the TeleScan system so long as the conditions set forth in [the July 18, 1985] letter [to TeleScan] are satisfied." A copy of the Commission's authorization to VidCode is attached hereto as Exhibit B.

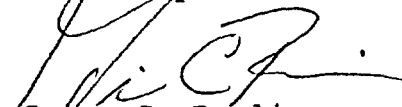
Nielsen herein similarly proposes to use with television licensees line 22 of the active video signal to broadcast encoded transmission identification and verification signals pursuant to Nielsen's "AMOL" system. Nielsen's AMOL system is fully compatible with the technical standards for television service, and will not produce unacceptable interference with, or degradation of, television service received by viewers. Moreover, the television licensees will retain ultimate control over their transmissions and are not required to transmit the AMOL signals outside of their contractual agreements with Nielsen and programmers.

Based on the foregoing, and notwithstanding the apparent general authority the Commission granted in the October 27, 1988 letter to VidCode, Nielsen hereby respectfully requests that the Commission grant Nielsen and television licenses using the AMOL system permissive authority to use line 22 of the television active video signal to transmit encoded advertisement and/or program identification signals.

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Due to the nature of Nielsen's business, it is imperative that it receive as soon as possible the permissive authority requested herein. Thus, your immediate attention to this matter would be greatly appreciated. Any questions regarding this matter may be referred to the undersigned. Technical questions regarding Nielsen's AMOL system may be referred to David Kiewit of A.C. Nielsen Media Research at (813) 734-5473.

Sincerely,



Graer C. Raclin
Counsel for A.C. Nielsen Company

Enclosures

cc: Roy J. Stewart, Chief,
Video Services Division
Stephen Sewell, Esq.
Video Services Division
Gordon Godfrey, Esq.
Television Branch

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

JUL 18 1985

IN REPLY REFER TO

Mr. Burton Greenberg
TeleScan, Inc.
36 East 12th Street
New York, New York 10003

Dear Mr. Greenberg:

This responds to the request submitted by TeleScan, Inc., on May 7, 1985, for FCC approval of a system to encode advertiser identification signals on line 22 of the television active video signal.

As described by TeleScan, this system would be used to provide independent verification of broadcasts of advertising messages. In operation, data signals carrying an advertiser's ISCI identification number would be encoded on commercials broadcast by a television station. The television station's signal would be monitored by equipment capable of decoding the data and recording it, along with the date, time of day, length of commercial, and presence of audio and video. TeleScan then would use the recorded information to provide various reports for its advertiser clients.

TeleScan indicates that it would prefer to transmit its signals on line 20 of the vertical blanking interval (VBI), but it has met resistance from broadcasters who are reserving this resource for their own purposes. It, therefore, desires to test and possibly implement the TeleScan system on line 22.

The Mass Media Bureau requested comments on the TeleScan request in a Public Notice released June 10, 1985. Comments were submitted by parties representing broadcasting and advertising interests. The commenting parties representing broadcasting interests express some concerns and reservations with respect to use of the TeleScan system, but in general are not opposed to its authorization. In particular, broadcasters argue that they should be informed of the presence of TeleScan signals and that the ultimate control and authority with respect to transmission of these signals should rest with the individual television station licensees. Broadcasters also are concerned that the TeleScan system is relatively untested and might cause interference or degradation to picture quality on some receivers, particularly new units that they claim do not employ overscanning. The CBS and ABC television networks oppose authorization of the TeleScan system. They submit that the presence of data signals on line 22 will cause unacceptable interference to picture

quality and that the monitoring of commercial announcements can be performed by other means that will not impair the video service. Commenting parties representing advertising interests support the authorization and use of a system for electronically monitoring broadcasts of commercial messages.

Upon examination of TeleScan's request, we believe that the TeleScan data qualifies as a "special signal," that is, a signal related to broadcast operation, but not intended for public use. The Commission set forth its policy concerning special signals in a Public Notice dated April 20, 1970. See, 22 FCC 2d 779 (1970). The Commission recognized the benefits of such signals and noted that they contribute to efficient broadcast operation. However, the Commission was also concerned that the use of special signals could cause some degradation of the broadcast program signal. Therefore, under the authority of Section 303(c) of the Communications Act, which directs the Commission to regulate the "kind of apparatus to be used with respect to . . . the purity and sharpness of emissions from stations . . .," the Commission held that such signals cannot be employed without its specific authorization. The Commission also specified that such permission will be granted only where it is infeasible to transmit the signals by means which have no detrimental effect on the broadcast service.

We find that the TeleScan system meets the standards established for special signals. TeleScan data, while not intended for use by the viewing public, is clearly related to the program material within which it is transmitted and to the operation of a television station's primary program service. The verification of broadcast of advertising messages is an element of the business side of broadcasting and is, therefore, a part of broadcast operation. In this regard, we find the TeleScan system the same as other special signals such as the cue and control tones used in program presentation. In addition, the nature and purpose of the information to be encoded requires that it be transmitted as an integral part of its associated program material. Thus, we believe it would not be practical to transmit TeleScan commercial verification data separately from the television signal carrying the program being monitored.

Our evaluation of the technical description of the TeleScan system indicates that the method used to encode the data and the presence of these signals on line 22 generally would not cause noticeable or objectionable interference or degradation to a station's video program service. It appears that use of the TeleScan system would not require changes to any component of a station's program presentation or transmitter equipment. We also find this system to be compatible with the technical standards for the television service such that its use would not necessitate modifications to our television technical rules.

On the basis of the above, we believe that the TeleScan system is consistent with our policy concerning use of special signals. Moreover, it appears that the use of this system for commercial verification would provide a number of benefits and efficiencies for the industry. We, therefore, have decided to

authorize transmission of TeleScan signals on line 22 of the television picture for the purpose of verification of broadcasts of commercial announcements. We wish to emphasize that this is a permissive authority only. Television licensees retain ultimate control over their transmissions and are not required to transmit TeleScan signals. It would therefore be permissible for a broadcaster to blank the TeleScan data line or replace it with reconstructed video. Consequently, we would expect that the broadcaster would be notified of the presence of advertiser verification signals on line 22 in commercial announcements. The authority to transmit TeleScan signals on line 22 also remains subject to the condition that the signals not produce unacceptable degradation of the television service received by viewers.

Accordingly, pursuant to Section 303(e) of the Communications Act, authority IS GRANTED for general use of the TeleScan system on line 22 by licensees in the television services. This authority is limited to use of the TeleScan system for purposes of verification as discussed herein. No other broadcast uses of the TeleScan system are permitted without the express consent of the Commission. Authority for this action is provided under Section 0.253 of the Commission's rules.

Sincerely,

A handwritten signature in dark ink, reading "James C. McKinney". The signature is written in a cursive style with a large, stylized initial "J".

James C. McKinney
Chief, Mass Media Bureau

11.0008
Blumenthal

OCT 26 1988

RECEIVED BY

MAIL BRANCH

OCT 26 1988

OCT 27 1988

MAIL BRANCH

Mr. Kevin McMahon
Davis, Noxio, Faithfull and Hapgood
45 Rockefeller Plaza
New York, New York 10011

signed by
mailed by

Dear Mr. McMahon:

This is in response to your letters of August 23, and September 14, 1988, regarding the general use of the "TeleScan system" to encode advertiser identification signals on line 22 of the television active video signal by television station licensees. Specifically, you request that the Commission confirm that the authorization it granted for use of the "TeleScan system" by TeleScan, Inc., (letter dated July 18, 1985) applies to the provision of such services by VidCode, Inc., as well. You note that VidCode is a new company that is unrelated to TeleScan and will have different ownership. You also state that VidCode expects to acquire the patents and patent applications for the "TeleScan system" from their current owners.

you know, on May 7, 1985, TeleScan requested that the Commission approve a system to encode advertiser identification signals on line 22 of the television active video signal. The Commission approved TeleScan's request, determining, first, that the transmission of such data qualified as a "special signal," (i.e., a signal that is related to broadcast operation, but not intended for public use), and, second, that the authority granted was "for general use of the TeleScan system on line 22 by licensees in the television services." The authority granted in the July 18, 1985, letter allows any television licensee to employ a system having the same technical characteristics as the TeleScan system so long as the conditions set forth in that letter are satisfied. The Federal Communications Commission expresses no position with respect to the legality under applicable laws relating to intellectual property rights of the use of the TeleScan system by VidCode or any other party. Moreover, we wish to emphasize that this is a permissive authority only. Television licensees retain ultimate control over their transmissions and are not required to transmit VidCode signals.

Chow?

Sincerely,

Alex D. Felker
Chief, Mass Media Bureau

PBlumenthal:jy:pab:lrd:MB
Typed: 10/24/88